

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (E 3338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING THE FILING BY THE PHYSICIANS FOR SOCIAL
RESPONSIBILITY-LOS ANGELES RESPONDING TO PETITION TO MODIFY**

Introduction

On January 17, 2002, the Physicians for Social Responsibility-Los Angeles (PSR) tendered for filing its pleading entitled "Petition To Adopt, Amend, Or Repeal A Regulation Pursuant To 1708.5 and AB 301, Petition To Establish A Safety Oversight Committee For San Onofre Nuclear Generating Station (SONGS) Units 1, 2 & 3." The pleading stated in part that it was being filed in response to, and in support of, the petition to modify Decision (D.) 88-12-083

(petition to modify) that was filed by the San Luis Obispo Mothers for Peace (Mothers For Peace) on November 29, 2001.¹

The pleading of PSR also requests that the Commission “authorize and establish an Independent Safety Committee at [SONGS] in order to provide an oversight, analysis and safety review of operations, maintenance and related activities....”

For the reasons explained below, the pleading will be entertained only as a response to the petition to modify.

Background

Mothers For Peace seeks to modify various portions of Appendix C of D.88-12-083 pertaining to the Diablo Canyon Independent Safety Committee, which was created as part of the settlement agreement approved in D.88-12-083. Mothers For Peace seeks to modify the nomination and replacement process for the Committee members. In particular, Mothers For Peace would require that: (1) candidates have knowledge, background, and experience in nuclear safety issues; (2) at least one member of the Committee be from the San Luis Obispo area; and (3) the Committee maintain an office and local staff in the San Luis Obispo area.

Relevance of PSR Pleading

PSR’s pleading contains a mixture of reasons why PSR believes independent safety committees are needed at both Diablo Canyon and at SONGS. To the extent PSR’s pleading relates to the merits of Mothers For Peace’s petition, PSR’s pleading should be treated as a response to that petition. The

¹ Mothers For Peace filed its petition to modify in Application (A.) 84-06-044 and A.85-08-025. The Chief Administrative Law Judge ruled on December 6, 2001 that the petition to modify would be considered, instead, in the above-captioned dockets.

Commission's Docket Office accordingly retitled the pleading as the "Response of Physicians For Social Responsibility-Los Angeles To The San Luis Obispo-Mothers For Peace Petition To Modify D.88-12-082" and filed the pleading as of January 17, 2002.

However, the PSR pleading should not be treated as a separate petition pursuant to the provisions of Pub. Util. Code § 1708.5, added by Stats. 1999, Ch. 568, to authorize the establishment of an equivalent independent safety committee for SONGS. There are two reasons for not treating PSR's pleading as a § 1708.5 petition. First, the pleading does not seek to adopt, amend, or repeal a "regulation." The legislative intent (in §1 of the statute) states that the term "regulation," as used in subdivision (a) of § 1708.5, is to "be construed as a general reference to rules of general applicability and future effect." Instead of proposing a rule that is applicable to all electric utilities, PSR is attempting to use the existing Diablo Canyon Committee as a template to create an equivalent committee for SONGS. Thus, PSR's pleading is not looking to establish a rule of general applicability. Second, to the extent that PSR wants to challenge the way a particular nuclear facility (here, SONGS) was or is now operated, and depending on the basis of that challenge, PSR should bring a complaint before this Commission or the appropriate federal authorities.

Because PSR's pleading will only be entertained as a response to Mothers For Peace's petition for modification, a reply may only be filed by the petitioner, Mothers For Peace, if it chooses to do so. Such a reply shall be filed and served no later than March 20, 2002.

Anyone who needs a copy of PSR's response should contact Jonathan Parfrey at PSR at (213) 386-4901 or by e-mail to: psrsm@psr.org. A copy may also be obtained from the Commission's Central Files.

IT IS RULED that:

1. The pleading of the Physicians for Social Responsibility-Los Angeles (PSR) that was tendered to the Docket Office for filing on January 17, 2002, shall be filed as a response to the petition to modify Decision 88-12-082 that was filed by the San Luis Obispo Mothers For Peace (Mothers For Peace).

2. PSR's request in its January 17, 2002 response, that an independent safety committee be established for the San Onofre Nuclear Generating Station, will not be considered as a petition filed pursuant to Pub. Util. Code § 1708.5, nor will such relief be entertained in connection with the Mothers For Peace's petition to modify.

3. If it decides to do so, Mothers For Peace shall file and serve its reply to PSR's response no later than March 20, 2002.

Dated February 22, 2002, at San Francisco, California.

/s/ JOHN S. WONG

John S. Wong
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding the Filing by the Physicians for Social Responsibility-Los Angeles Responding to Petition to Modify on all parties of record in this proceeding or their attorneys of record.

Dated February 22, 2002, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.